

FRIDAY, OCTOBER 31, 1997

Civil HOWDY V. CARTER
No. vs.
C025417 HILLTOP DEVELOPMENT COMPANY ET AL.

By the Court:

The request of respondents Hilltop Development Company et al. to
publish the opinion filed on October 24, 1997, is denied.

Dated: October 31, 1997

BLEASE, Acting P.J.

Crim. THE PEOPLE (Certified for Publication)
No. vs.
C023943 FERNANDO DELGADO GONTIZ

The judgment (order) is reversed.

MORRISON, J.

We concur: BLEASE, Acting P.J.
 RAYE, J.

FRIDAY, OCTOBER 31, 1997 CONTINUED

Civil BAUGH CONSTRUCTION CO. ET AL.
 No. vs. (Not for Publication)
 C023071 GRANITE STATE INSURANCE COMPANY
 C023311 BAUGH CONSTRUCTION CO ET AL.

vs.
 HIGHLANDS INSURANCE COMPANY ET AL.

The judgment in favor of Lloyd's is affirmed; Lloyd's shall recover its costs of that appeal. The judgment as to Granite State and Highlands are reversed; Baugh shall recover its costs of those appeals.

BLEASE, Acting P.J.

We concur: NICHOLSON, J.
 RAYE, J.

Crim. THE PEOPLE (Certified for Publication)
 No. vs.
 C024449 FERNANDO DELGADO GONTIZ

The judgments (orders) are affirmed.

MORRISON, J.

We concur: BLEASE, Acting P.J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C023828 JOHN PAUL SOBASKIEWICZ

The judgment is affirmed.

NICHOLSON, J.

We concur: DAVIS, Acting P.J.
 RAYE, J.

Civil In re Marriage of WILLIAM AND KATHLEEN HEGG
 No. KATHLEEN F. HEGG (Not for Publication)
 C024336 vs.

WILLIAM G. HEGG

The judgment is affirmed.

DAVIS, J.

We concur: BLEASE, Acting P.J.
 NICHOLSON, J.

FRIDAY, OCTOBER 31, 1997 CONTINUED

Crim. THE PEOPLE (Not for Publication)
No. vs.
C019221 JAMIE LOMELI GOMEZ

The judgment is affirmed.

NICHOLSON, J.

We concur: PUGLIA, P.J.
RAYE, J.

Civil R. L. MANAGEMENT COMPANY
No. vs. (Certified for Publication)
C023517 THOMAS P. NAGEL, AS DIRECTOR, ETC.

The judgment is affirmed.

BLEASE, Acting P. J.

We concur: NICHOLSON, J.
RAYE, J.

MONDAY, NOVEMBER 3, 1997

1975-97

THE HONORABLE KEITH F. SPARKS, Retired Associate Justice of the Court of Appeal, Third Appellate District, is hereby assigned to assist the Court of Appeal, Third Appellate District, as a justice thereof, from November 1, 1997 to January 31, 1998, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

Dated: October 24, 1997

RONALD M. GEORGE
Chief Justice of California
and Chairperson of the
Judicial Council

MONDAY, NOVEMBER 3, 1997 CONTINUED

Civil MARRIAGE OF LYNN K. AND STEVEN L. WESSELS
 No. LYNN K. WESSELS
 C026934 vs.
 STEVEN L. WESSELS

By the Court:

Pursuant to written request of appellant, the appeal filed June 20, 1997, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19(b).)

Dated: November 3, 1997

PUGLIA, P.J.

Civil WILLIAM JACKS, JR. (Not for Publication)
 No. vs.
 C022416 PLUMAS COUNTY SUPERIOR COURT
 BOARD OF SUPERVISORS OF THE COUNTY OF PLUMAS ET AL.
 THE COURT:

.....This modification does not affect the judgment. The petition for rehearing is denied.

THE COURT:

PUGLIA, P.J.

SCOTLAND, J.

TUESDAY, NOVEMBER 4, 1997

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C023836 BRIAN ANDREW VANLAWICK

The judgment is affirmed.

SIMS, Acting P.J.

We concur: NICHOLSON, J.
 CALLAHAN, J.

TUESDAY, NOVEMBER 4, 1997 CONTINUED

Civil ALLAN HAPPE ET AL. (Not for Publication)
 No. vs.
 C021078 ENRON OIL & GAS COMPANY ET AL.
 The judgment is affirmed.

BLEASE, J.

We concur: PUGLIA, P.J.
 NICHOLSON, J.

WEDNESDAY, NOVEMBER 5, 1997

Crim. THE PEOPLE
 No. vs.
 C027133 EARL DAMOND BAILEY
 By the Court:

The appeal filed July 18, 1997, is dismissed pursuant to Penal Code section 1237.1.

Appellant's request for judicial notice is dismissed as moot. The clerk of the court is directed to return the material attached to said request.

Dated: November 5, 1997

PUGLIA, P.J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C023839 LOWELL REID PHENIX
 The judgment is affirmed.

NICHOLSON, J.

We concur: SIMS, Acting P.J.
 CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)
 No. vs.
 C025397 MAURICE ANTHONY VASQUEZ
 The judgment is affirmed.

SIMS, Acting P.J.

We concur: NICHOLSON, J.
 CALLAHAN, J.

WEDNESDAY, NOVEMBER 5, 1997 CONTINUED

Crim. THE PEOPLE (Not for Publication)

No. vs.

C024161 LELAND LAMONT PHILLIPS

The judgment is affirmed.

SIMS, J.

We concur: PUGLIA, P.J.
CALLAHAN, J.

Civil ROBERT DESRUISSEAU (Not for Publication)

No. vs.

C024562 STATE OF CALIFORNIA ET AL.

The judgment is affirmed.

CALLAHAN, J.

THURSDAY, NOVEMBER 6, 1997

Juvenile IN RE SETH H., A Person under the Juvenile Court Law

No. DEPARTMENT OF HEALTH AND HUMAN SERVICES

C027285 vs.

KYM H.

By the Court:

Pursuant to written request of appellant, the appeal filed August 7, 1997, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19(b).)

Dated: November 6, 1997

PUGLIA, P.J.

Civil UNION BANK

No. vs.

C025815 REALPROP/ROSEVILLE I, ET AL.

By the Court:

Pursuant to the joint application and stipulation of counsel for reversal of judgment and remand of action to the superior court, the appeal filed February 6, 1997, is dismissed. The matter is remanded to the superior court in accordance with the attached stipulation filed with this court on October 22, 1997.

Dated: November 6, 1997

PUGLIA, P.J.

THURSDAY, NOVEMBER 6, 1997 CONTINUED

Crim. THE PEOPLE (Not for Publication)

No. vs.

C024760 JAVIER HECTOR GOMEZ

The judgment is affirmed.

CALLAHAN, J.

we concur: SIMS, Acting P.J.
NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)

No. vs.

C025356 JAMES ALLEN HOOD

The appeal is dismissed.

NICHOLSON, J.

We concur: SIMS, Acting P.J.
CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)

No. vs.

C023500 BRIAN STRONG

The judgment is affirmed.

SIMS, Acting P.J.

Civil ROBERT J. GILSTRAP ET AL.

No. A. TEICHERT & SON, INC.

C024714 vs. (Not for Publication)

M.W. SHERWOOD, INC. ET AL.

The order is vacated and the matter remanded for the trial court to prepare a new order that includes (1) an allocation of the settlement between the claims of Employee and Employee's wife, (2) an express redetermination of the reasonable attorney's fees for both parties, (3) an express determination of the litigation costs of Employer and Employee, and (4) an express determination of the benefit reimbursement allowed to Employer. Employer shall recover its costs of appeal.

BLEASE, Acting P.J.

I concur: RAYE, J.

I concur in the majority opinion except for its remark that application of Labor Code section 3860, subdivision (e) as it is written "may be an inequitable result."

SIMS, J.

THURSDAY, NOVEMBER 6, 1997 CONTINUED

Civil PAUL MATSON (Not for Publication)

No. vs.

C022221 DAVID TOBIASSEN

The judgment is affirmed.

SCOTLAND, J.

We concur: BLEASE, Acting P.J.
SPARKS, J.*

Retired Associate Justice of the Court of Appeal, Third District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Civil ROXIE D. FITE (Not for Publication)

No. vs.

C024573 GEORGE C. PERDIKIS

The judgment is affirmed. Respondents shall recover his costs on appeal.

NICHOLSON, J.

We concur: SIMS, Acting P.J.
RAYE, J.

Civil THE PEOPLE (Not for Publication)

No. vs.

C023126 ANDRE MARSHALL DAWSON

The convictions and findings are affirmed. The sentence is vacated and the matter is remanded the trial court to consider in its discretion whether to strike any or all of defendant's five prior felony conviction allegations. If the trial court strikes four or five allegations it shall resentence defendant accordingly. If the court declines to strike more than three allegations it shall reinstate the sentence previously imposed.

CALLAHAN, J.

We concur: PUGLIA, P.J.
SIMS, J.

THURSDAY, NOVEMBER 6, 1997 CONTINUED

Crim. THE PEOPLE (Not for Publication)

No. vs.

C025763 MONTE RAY ABEL

The judgment is affirmed.

NICHOLSON, J.

We concur: SIMS, Acting P.J.
RAYE, J.

Crim. THE PEOPLE (Not for Publication)

No. vs.

C020813 MAURICE EUGENE PARKS

The judgment is affirmed.

DAVIS, J.

We concur: PUGLIA, P.J.
SCOTLAND, J.

Civil MARILYN PENNICK, as conservator for AL CHARPONTIER

No. vs. (Not for Publication)

C022544 LOIS CHARPONTIER

The judgment is affirmed. Respondent's request for sanctions is denied.

SCOTLAND, Acting P.J.

We concur: NICHOLSON, J.
RAYE, J.

FRIDAY, NOVEMBER 7, 1997

Crim. THE PEOPLE (Not for Publication)

No. vs.

C019549 PATRICK MERRIGAN

The judgment is affirmed.

SIMS, J.

I concur: NICHOLSON, J.

I concur in the judgment and opinion except as to part III of the Discussion. I would remand the case to the trial court under People v. Superior Court (Romero), supra, 13 Cal.4th 497.

BLEASE, Acting P.J.

FRIDAY, NOVEMBER 7, 1997 CONTINUED

Juvenile In re CHARLES F. ET AL., Persons under the Juvenile Court Law
No. SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN
SERVICES (Not for Publication)

C026591 vs.
CHRISTINA F.

The order of the Juvenile court terminating parental rights is affirmed.

SIMS, J.

We concur: BLEASE, Acting P.J.
SCOTLAND, J.

Juvenile In re TREVOR C., A person under the Juvenile Court Law
No. DEPARTMENT OF SOCIAL SERVICES
C026395 vs. (Not for Publication)
KERI P.

The order of the Juvenile court denying appellant's motion for modification is affirmed.

NICHOLSON, J.

We concur: SIMS, Acting P.J.
CALLAHAN, J.

MONDAY, NOVEMBER 10, 1997

Crim. THE PEOPLE (Certified for Publication)
No. vs.
C023943 FERNANDO DELGADO GONTIZ
C024449 THE COURT:

It is ordered that the opinions filed herein on October 31, 1997, be modified as follows:

1. For the purpose of publication the opinions in the above cases are consolidated.
2. The final disposition should read:
The judgment (orders) are reversed.
3. This modification does not change the judgment.

FOR THE COURT:

BLEASE, Acting P.J.
MORRISON, J.

MONDAY, NOVEMBER 10, 1997 CONTINUED

Crim. THE PEOPLE (Not for Publication)

No. vs.

C025148 SISTO QUINTANILLA

The judgment is affirmed.

MORRISON, J.

We concur: SIMS, Acting P.J.
CALLAHAN, J.

WEDNESDAY, NOVEMBER 12, 1997

Crim. THE PEOPLE

No. vs.

C022332 JAMES BROWN

By the Court:

Appellant's petition for rehearing is denied.

Dated: November 12, 1997

PUGLIA, P.J.

Crim. THE PEOPLE (Not for Publication)

No. vs.

C026190 HELENA MARIE MARQUES

The judgment is affirmed.

RAYE, J.

We concur: SIMS, Acting P.J.
NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)

No. vs.

C024657 FORREST LORAIN CRAIGHOLM

The judgment is modified to stay execution of sentence on count 2, said stay to become permanent upon completion of the unstayed portion of the sentence, and is affirmed as modified. The trial court is directed to amend the abstract of judgment to reflect this modification and to forward a copy of the amended abstract to the Department of Corrections.

SCOTLAND, J.

We concur: PUGLIA, P.J.
CALLAHAN, J.

WEDNESDAY, NOVEMBER 12, 1997 CONTINUED

Crim. THE PEOPLE (Not for Publication)
No. vs.
C024454 JOHANN RICHARD GRAY
The judgment is affirmed.
SCOTLAND, J.
We concur: PUGLIA, P.J.
NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C024084 ALONZO GASTON aka RICHARD C. JACKSON
The judgment is affirmed.
SCOTLAND, J.
We concur: PUGLIA, P.J.
CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)
No. vs.
C022603 LORIE SAM
The judgment is affirmed.
MORRISON, J.
We concur: BLEASE, Acting P.J.
NICHOLSON, J.

Civil COD GAS & OIL CO., INC. ET AL.
No. vs. (Not for Publication)
C024659 STATE BOARD OF EQUALIZATION
The judgment is affirmed.
RAYE, J.
We concur: SCOTLAND, Acting P.J.
MORRISON, J.

THURSDAY, NOVEMBER 13, 1997

Crim. THE PEOPLE (Not for Publication)

No. vs.

C024554 DAVID CASAS PEREZ

The judgment is affirmed.

NICHOLSON, J.

We concur: BLEASE, Acting P.J.

DAVIS, J.

Civil STATE OF CALIFORNIA, ET AL. (Not for Publication)

No. vs.

C024978 THE SUPERIOR COURT OF SACRAMENTO COUNTY
EILEEN KENNEDY

The petition for writ of mandate is denied. The alternative writ, having served its purpose, is discharged. Upon this decision becoming final, the stay previously issued is vacated. Plaintiff is awarded her costs. (Cal. Rules of Court, rule 56.4(a).)

SPARKS, J.*

We concur: BLEASE, Acting P.J.

SCOTLAND, J.

*Retired Associate Justice of the Court of Appeal, Third District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Civil STEVEN J. OBOS (Certified for Publication)

No. vs.

C024191 SCRIPPS PSYCHOLOGICAL ASSOCIATES, INC. ET AL

The judgment is affirmed. Respondents shall recover their costs on appeal.

NICHOLSON, J.

We concur: SCOTLAND, Acting P.J.

CALLAHAN, J.

THURSDAY, NOVEMBER 13, 1997 CONTINUED

Civil In re AUDREY C., A person under the Juvenile Court Law
No. DEPARTMENT OF SOCIAL SERVICES
C026722 vs. (Not for Publication)
 BUNNY M.

The order terminating appellant's parental rights is reversed, and the matter is remanded to the juvenile court which is directed to conduct a properly noticed section 366.26 hearing. Remittitur shall issue immediately, pursuant to California Rules of Court, rule 25(b).

In all other respects, the judgment is affirmed.

BLEASE, Acting P.J.

We concur: SIMS, J.
 SCOTLAND, J.

Civil CALIFORNIA DEPARTMENT OF CORRECTIONS
No. vs.
C022467 STATE PERSONNEL BOARD
 JOHNNY C. WALLACE

The judgment is reversed and the matter remanded to the trial court with directions to enter judgment denying CDC's petition for writ of administrative mandamus. Wallace shall recover his costs on appeal.

PUGLIA, P.J.

I concur: DAVIS, J.

I would hold the trial court got it right. Wallace's verbal and nonverbal conduct, considered together, constituted unlawful discrimination unprotected by the First Amendment. I would therefore affirm the trial court's decision.

SIMS, J.

THURSDAY, NOVEMBER 13, 1997 CONTINUED

Civil GIAN S. JOHL ET AL. (Not for Publication)

No. vs.

C023761 HARBHAJAN S. BAINS ET AL.

U. S. BANK OF CALIFORNIA

vs.

SRI GURU NANAK SIKH TEMPLE

The judgment is affirmed; the parties shall bear their costs of this appeal.

BLEASE, Acting P.J.

We concur: SIMS, J.

CALLAHAN, J.

FRIDAY, NOVEMBER 14, 1997

Civil JAMES FEDERICO ET AL. (Not for Publication)

No. vs.

C027388 SUPERIOR COURT OF SACRAMENTO COUNTY

JENRY TORRES GONZALES, ETC.

Let a peremptory writ of mandate issue directing respondent superior court to vacate its order denying defendant's motion for summary judgment and to grant that motion. Upon finality of this decision, the previously issued stay is vacated. Defendants shall recover their costs of this proceeding.

PUGLIA, P.J.

We concur: DAVIS, J.

MORRISON, J.

Crim. THE PEOPLE (Not for Publication)

No. vs.

C023387 DOUGLAS HAROLD DOYLE

The judgment is affirmed.

PUGLIA, P.J.

We concur: SIMS, J.

CALLAHAN, J.

FRIDAY, NOVEMBER 14, 1997 CONTINUED

Civil JUDITH TRUJILLO ETC. (Not for Publication)
No. vs.
C026542 SUPERIOR COURT OF SACRAMENTO COUNTY
 JOSEPH F. HARBISON, III, ETC. ET AL.

Let a peremptory writ of mandate issue directing the respondent superior court to vacate its orders of April 17, 1997, April 30, 1997, and May 1, 1997, suspending petitioner's powers as conservator with respect to the personal injury litigation filed on conservatee's behalf, appointing Robert Tronvig as temporary conservator of conservatee's estate only as to his personal injury litigation, and directing the employment of Wilcoxon, Montgomery & Harbison as counsel for the conservator in the personal injury litigation. The respondent superior court is further directed to enter a new order denying the application filed by Joseph Harbison and Daniel Wilcoxon on April 11, 1997. Upon finality of this decision, the stay previously issued is vacated. Costs to petitioner.

PUGLIA, P.J.

We concur: BLEASE, J.
 SIMS, J.